DMC
Leading. Health. Care.
Detroit Medical Center

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Richard R. Widgren, Chair
Legacy DMC
550 East Canfield
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Dear Dick:

Many in the Detroit community can easily recall the difficulties facing the DMC at the time it was sold to Vanguard Health System. It is no exaggeration to say that the failure of this critical Detroit institution was a possibility at that time. Today, instead of a situation where the neediest Detroiters would have been hit hardest, thousands of jobs were in jeopardy and an exodus of highly trained and motivated caregivers loomed, we have a strong and stable DMC.

The performance of the DMC is lost in the draft report of the Legacy Board ("Report"). Therefore, the Report requires remedy before it can be made final and public. The Board appears to use its legitimate authority to make observations that are inaccurate and reach findings which far exceed its scope. In doing so, its proposed Report speculates about possible concerns that are not supported by facts. The resulting harm to DMC from releasing this version of the Report will be significant. It does not accurately reflect DMC's performance nor serve to the stated interest of the Legacy Board in the ongoing success of the organization. In response, we will review the points raised in the Report and the reality we see and have documented and shared with the Board previously.

Concerns regarding Legacy Board Report

In the Report's conclusion, the Board finds that DMC has met its obligations, including clearly stating that DMC continues its "long-standing record of providing health care to the indigent, which is the most important PSA commitment," and has substantially exceeded the capital commitments required by the sale. As drafted, the Report buries this finding in unrelated commentary. Without addressing each example, the following paragraphs highlight key concerns that we believe must be corrected in the Report.

Starting with Indigent and Low Income Care, the Report acknowledges that DMC continues to the "more benevolent" charity care program launched by Vanguard Health System in 2011, has advanced access to care in 2018 with free parking and increased referrals to federally qualified health centers, and substantially increased the amount of uncompensated care provided between 2017 and 2018. Yet from this positive performance, the Board introduces the suggestion that DMC may be putting low income and indigent patients at risk due to failed safety inspections and insufficient capital and research funding. The Report has no legitimate reason to speculate this way, especially given these topics are addressed – and the concerns rebutted – with facts either in the Report or shared previously.

Regarding Hospitals and Core Services, the Report says that "Legacy believes that this commitment has been met but notes that continuing inspection failures will raise questions about whether lines of service and related hospital operations are being hollowed out and diminished to an unacceptable level." Each of the Core Services has been maintained in compliance with the Purchase Agreement. It is not clear why the Board would speculate about potential diminution of other service lines. DMC continues to invest in a full spectrum of healthcare services well beyond the requirements of the Purchase Agreement. DMC has recruited high quality physicians to lead its clinical programs, even as Wayne State University's School of Medicine loses significant numbers of faculty; Dr. Kenton Zehr

from Johns Hopkins, Dr. Ileana Pina from Mt. Sinai, and Dr. John Dentel from Univ. of Washington and Seattle Children's Hospital are three recent examples. DMC also added residency slots and increased resident and fellows' salaries in 2019. While DMC has been the subject of a number of complaints by physicians, labor organizations and others leading to surveys, LARA has confirmed DMC's consistent, timely correction of any issues found in the surveys. Similarly, ACGME surveys found DMC's teaching programs to be in full compliance with accreditation standards. In addition, the majority of our programs received commendation. The Board cannot reasonably suggest that hospital services are being unacceptably diminished.

The Report also concludes that DMC's commitment to research is not compliant with the Purchase Agreement. DMC has provided abundant evidence to the contrary. The Report implies that DMC provided no information about research activity until May 29, 2019. In fact, DMC's annual report addressed research, and the letter delivered by Dr. Tedeschi to Mr. Walsh on May 23, along with further quantitative information gathered from independent third parties delivered on May 29, provided more than adequate information to demonstrate that research has been fostered and enhanced at DMC, well beyond the stature of the program at the time of acquisition. As one data point, academic publications regarding clinical trials and total DMC-affiliated research publications increased significantly from 2008 to 2018 per review on PubMed. The only counterpoint suggested by the Board is an unsupported comment by David Hefner, who was seeking to justify Wayne State University School of Medicine's departure from its historic commitment to DMC in favor of a now-defunct partnership with Henry Ford Health System.

Continuing, the Report's discussion of capital spending is also inaccurate. It implies nonperformance by DMC and associates it with a negative impact on patient care. The Board may believe it should be otherwise, but the language of the Purchase Agreement and the Monitoring and Compliance Agreement is clear: DMC's capital funding obligation is limited to routine capital in an average amount not less than $50MM for each of the first five years following the purchase, with an aggregate obligation of at least $350MM. This obligation has expired. There is no ongoing routine capital funding commitment. There is no ongoing reporting requirement. Section 12.17(a) of the Purchase Agreement establishes the reporting obligation for capital spending. It applies only to Section 12.4, which the Board acknowledges to have been satisfied. Notwithstanding the absence of obligation, DMC continues to report on its capital purchases. The Board does not acknowledge this voluntary reporting but instead contends that DMC has failed in its obligations because the Board's further demand for capital plans is not met. This information is proprietary, competitively sensitive in the market, and not required by the relevant agreements. Conclusions that spending levels are inadequate and put patients at risk are inappropriate. And, to be clear, no regulatory survey finding relates in any way to absence of capital spending.

Related to this point, the quotation from the Monitoring and Enforcement Agreement is incomplete and misleading as presented. The Monitoring and Enforcement Agreement relates only to certain Post-Closing Covenants defined in that agreement, which do not include research or post-2016 capital funding, yet the discussion of financial transparency focuses on these topics. In an effort to collaborate with the Board, DMC has provided it with significant information on these topics. The Board cannot conclude that DMC has violated its obligations because it did not accede to the Board's demand for specific financial information not covered by DMC's reporting obligations.

These several paragraphs highlight DMC's profound disagreement with the content of the proposed Report. DMC and Tenet are committed to their stewardship of the health of the Detroit community and the success of the Detroit Medical Center. DMC's extraordinary 1,721 physicians and 11,571 employees make patients' lives better every day. They continue to perform miracles for complex patients who have nowhere else to turn to for their care, and they are honored to do so. DMC has more than met every obligation under the Purchase Agreement. And we remain committed to an ongoing collaboration with the Legacy Board to facilitate its legitimate monitoring requirements through the duration of the Purchase and Sales Agreement.

Proposed Path Forward

It is essential that the Legacy Board reframe the Report to reflect reality. In 2010, Vanguard Health System acquired a struggling institution with significant federal regulatory issues, as evidenced by the Stark Law settlement entered into by the seller before closing, and major capital needs with no clear source of funding. Since closing the acquisition, Vanguard Health System and now Tenet have invested nearly a billion dollars into DMC's facilities. Three important safety net hospitals, along with the only pediatric hospital in Detroit, remain full expansive scopes of service in place and continue to serve the needs of the Detroit community, while DMC's "Path to Health" program looks to expand access to care, having helped nearly 90,000 individuals enroll in coverage in recent years. DMC has invested in new technology, in onboarding providers, and in research as well, weathering the instability of Wayne State University School of Medicine – the DMC's primary institutional partner in Detroit – over the last several years.

DMC continues the process of assuring sustainability for the essential role its hospitals play through effective management of costs and thoughtful investment. The new Children's Hospital of Michigan tower illustrates this principle. While redesign of the project extended the completion of the special capital obligation, the final product better positioned the hospital to serve the changing needs of the pediatric population in Detroit and southeast Michigan more broadly. Making hard choices for the betterment of the community defines DMC's stewardship of the hospital assets and the community's best interest, all in concert with the obligations assumed at the time of purchase.

We welcome a fair, fact-based discussion with the Legacy Board on the topics where the Legacy Board has concerns and DMC should provide a transparent account per the terms of the Purchase and Sale Agreement. We believe the Report fails to reflect the reality of DMC's performance and will instead damage the DMC and its relationship with the community at large. This must be remedied before the Report moves forward.

Sincerely,

Anthony Tedeschi, MD
Chief Executive Officer
Detroit Medical Center

cc: Charles Nida, Esq.
Kelly Keenan, Deputy Attorney General
Joseph Walsh, CEO, Legacy DMC
David Katz, SVP, DMC Government Relations